



Town of Arlington

ARLINGTON REDEVELOPMENT BOARD

2020 Annual Town Meeting Draft Zoning Bylaw Amendments

February 13, 2020

Introduction and Overview

The Arlington Redevelopment Board (ARB) is the Town's Planning Board, under M.G.L. Chapter 41 § 81. There are five members of the Board. Four are appointed by the Town Manager and the fifth is a gubernatorial designee appointed by the Massachusetts Department of Housing and Community Development. The Board serves as the Town's special permit granting authority for projects which require an Environmental Design Review (EDR) as identified in the Zoning Bylaw. The ARB is also the Town's Urban Renewal Authority under M.G.L. Chapter 121; with Town Meeting approval, the Board may hold property to improve and rehabilitate them to meet community development goals.

The members of the ARB are as follows:

Andrew Bunnell, Chair, (Term through 1/31/2023)

Kin Lau, Vice Chair (Term through 1/31/2022)

Eugene Benson (Term through 1/31/2023)

David Watson (Term through 9/22/2023)

Rachael Zsembery (Term through 6/30/2020)

Jennifer Raitt, Director of the Department of Planning and Community Development, serves as Secretary Ex-Officio to the ARB.

In accordance with the provisions of the Town of Arlington, Massachusetts Zoning Bylaw and Massachusetts General Laws Chapter 40A, a public hearing will be held by the Arlington Redevelopment Board (ARB) on:

1. **Monday, March 2, 2020**, beginning at 7:30 PM, in the Central School, Main Room, 27 Maple Street, Arlington, MA;
2. **Monday, March 16, 2020**, beginning at 8:30 PM in the Lyons Hearing Room, Town Hall, 730 Massachusetts Avenue, Arlington, MA;
3. **Thursday, March 19, 2020**, beginning at 7:30 PM in the Arlington Police Department Community Room, 112 Mystic Street, Arlington, MA; and
4. **Monday, March 23, 2020**, beginning at 7:30 PM in the Lyons Hearing Room, Town Hall, 730 Massachusetts Avenue, Arlington, MA

The ARB will hear public comments on the proposed amendments to the Zoning Bylaw. After receiving public comments, the ARB will make recommendations on the proposed amendments for Annual Town Meeting, which will begin on Monday, April 27, 2020.

The draft language of the proposed amendments to the Zoning Bylaw is available on Thursday, February 13, 2020 through Tuesday, March 24, 2020 in the Department of Planning and Community Development on the first floor of the Town Hall Annex, Monday through Wednesday, 8:00 a.m. to 4:00 p.m.; Thursday, 8:00 a.m. to 7:00 p.m.; and Friday, 8:00 a.m. to 12:00 p.m., the Town Clerk's Office, the Robbins Library Reference Desk, or viewed and downloaded from the Redevelopment Board webpage of the Town's website at www.arlingtonma.gov.

Please note that the Zoning Bylaw Amendments have not yet been assigned Article numbers as of February 13, 2020.

Contact Erin Zwirko, Assistant Director of Planning and Community Development, at 781-316-3091 or ezwirko@town.arlington.ma.us with any questions or comments.

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Zoning Bylaw Amendments: Affordable Housing Requirements

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE__ ZONING BYLAW AMENDMENT/ AFFORDABLE HOUSING REQUIREMENTS

To see if the Town will vote to amend the Zoning Bylaw to increase the time during which the affordable housing requirements apply from a two-year period to a three-year period in alignment with G.L. c.40A § 9 by amending SECTION 8.2.2. APPLICABILITY; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 8.2.2.:

8.2.2. Applicability

The provisions of this Section 8.2 shall apply to all new residential development with six or more units subject to Section 3.4, Environmental Design Review, comprised of any or all of the following uses:

- Single-family detached dwelling
- Two-family dwelling
- Duplex dwelling
- Three-family dwelling
- Townhouse structure
- Apartment building
- Apartment conversion
- Single-room occupancy building

Any residential development of the uses listed above involving one lot, or two or more adjoining lots in common ownership or common control, for which special permits or building permits are sought within a ~~two-year~~ three-year period from the first date of special permit or building permit application shall comply with the provisions of this Section 8.2.

Zoning Bylaw Amendments: Apartment Conversion

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE__

ZONING BYLAW AMENDMENT/ APARTMENT CONVERSION

To see if the Town will vote to amend the Zoning Bylaw to include a definition of apartment conversion by amending SECTION 2 DEFINITIONS; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 2:

Apartment Conversion: The conversion of an existing structure originally designed for one-family or two-family use to an apartment building with no addition to or expansion of the exterior of the structure.

Zoning Bylaw Amendments: Parking Reductions in the B3 and B5 Districts

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE____ ZONING BYLAW AMENDMENT/ PARKING REDUCTIONS IN THE B3 AND B5 DISTRICTS

To see if the Town will vote to amend the Zoning Bylaw to allow the Board of Appeals or Arlington Redevelopment Board, as applicable, to reduce the parking requirement to as low as zero in the B3 and B5 Districts through Special Permit where businesses have no ability to create new parking by amending SECTION 6.1.5. PARKING REDUCTION IN BUSINESS, INDUSTRIAL, AND MULTI-FAMILY RESIDENTIAL ZONES; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 6.1.5:

6.1.5. Parking Reduction in Business, Industrial, and Multi-Family Residential Zones

The Board of Appeals or Arlington Redevelopment Board, as applicable, may allow the reduction of the parking space requirements in the R5, R6, R7, Business, and Industrial Zones to 25 percent of that required in the Table of Off-Street Parking Regulations if the proposed parking is deemed adequate and where Transportation Demand Management practices are incorporated, as evidenced by a Transportation Demand Management Plan approved by the Special Permit Granting Authority. Methods to reduce parking on site may include but are not limited to:

- A. Shared Parking: To implement shared on-site parking, the applicant shall demonstrate that proposed uses are non-competing. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demand for non-competing uses. In these cases, the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient.
- B. Off-site Parking. An applicant may use off-site parking to satisfy their parking requirements as provided in Section 6.1.10. The applicant shall document efforts to promote use of off-site parking by customers, residents, or employees.
- C. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. TDM provides incentives to reduce the use of Single Occupant Vehicles and encourages the use of public transit, bicycling, walking, and ridesharing. All projects requesting a parking reduction must employ at least three TDM methods described below:
 - (1) Charge for parking on-site;
 - (2) Pay a stipend to workers or residents without cars;
 - (3) Provide preferential parking for carpooling vehicles;
 - (4) Provide a guaranteed emergency ride home;
 - (5) Provide transit pass subsidies;
 - (6) Provide covered bicycle parking and storage;
 - (7) Provide bicycle or car sharing on site;
 - (8) Provide showers for business or industrial uses;
 - (9) Other means acceptable to the applicable Special Permit Granting Authority.

Zoning Bylaw Amendments: Parking Reductions in the B3 and B5 Districts

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

When a business in the B3 or B5 District has no ability to create new parking onsite and there is adequate nearby on-street parking or municipal parking, the Board of Appeals or Arlington Redevelopment Board, as applicable, may, upon the request of an applicant, reduce to less than 25 percent or eliminate the amount of parking required in the Table of Off-Street Parking Regulations. For these situations, the applicable Special Permit Granting Authority may require the applicant to incorporate methods set forth in subparagraphs A., B., and C of this section.

DRAFT

Zoning Bylaw Amendments: Administrative Corrections

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE__ ZONING BYLAW AMENDMENT/ ADMINISTRATIVE CORRECTIONS

To see if the Town will vote to amend the Zoning Bylaw to make the following administrative corrections;

1. Correcting references to Board of Selectmen in subparagraph B of SECTION 3.1.4. PENALTY and in Section 3.2.1. ESTABLISHMENT;
2. Correcting reference to August, 1975 in subparagraphs C and D in SECTION 5.4.2. DIMENSIONAL AND DENSITY REQUIREMENTS;
3. Correcting reference to 105 CMR 725.100 in the definition of a medical marijuana treatment center in SECTION 2 DEFINITIONS; and
4. Correcting reference to seven feet three inches in subsection A(2) in SECTION 5.3.22. APPLICABILITY;

or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 3.1.4.:

3.1.4. Penalty

- A. If the notice of violation is not complied with according to the time specified in the notice, the Building Inspector may, in accordance with G.L. c. 40, § 21D, institute a non-criminal complaint(s) with penalty. Each day in which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this Bylaw shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.
- B. The Building Inspector may, with the approval of the ~~Board of Selectmen~~ Select Board, institute the appropriate criminal action or proceeding at law or in equity to prevent any unlawful action, use or condition, and to restrain, correct or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed three-hundred dollars (\$300.00) for each offense. Each day, or portion of a day, in which a violation exists shall be deemed a separate offense.

Amend SECTION 3.2.1.:

3.2.1. Establishment

There shall be a Zoning Board of Appeals ("Board of Appeals") consisting of five members and two associate members appointed by the ~~Board of Selectmen~~ Select Board. All members of the Board of Appeals shall be Arlington residents, one member shall be an attorney-at-law, and at least one of the remaining members shall be a registered architect or a registered professional engineer. The appointment, service, and removal or replacement of members and associate members and other actions of the Board of Appeals shall be as provided for in G.L. c. 40A.

Zoning Bylaw Amendments: Administrative Corrections

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Amend SECTION 5.4.2.:

- C. One exception is made for attached single-family dwellings on Sunnyside Avenue, Gardner Street, Silk Street, Marrigan Street, and Fremont Street. Attached single-family dwellings existing in August 28, 1975, on these streets are permitted as a right.
- D. In the R0, R1 and R2 districts no new licensed nursing home, rest home, convalescent home facilities shall be constructed except at sites whereon these facilities existed as of August 28, 1975. These existing facilities may be reconstructed to meet code requirements in accordance with a special permit under 3.3 and 3.4.

Amend SECTION 2:

Medical Marijuana Treatment Center: An establishment registered with the Commonwealth pursuant to ~~105 CMR 725.100~~ 935 CMR 501.00, also known as a “registered marijuana dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes in accordance with applicable state laws and regulations. Unless otherwise specified, Medical Marijuana Treatment Center refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Amend SECTION 5.3.22.A(2):

- A. For the purposes of this bylaw, the following areas of buildings are to be included in the calculation of Gross Floor Area:
 - (1) Elevator shafts and stairwells on each floor;
 - (2) Attic areas with headroom, measured from subfloor to the bottom of the roof structure, of seven feet ~~three inches~~ or more, except as excluded in (4) below;
 - (3) Interior mezzanines;
 - (4) Penthouses;
 - (5) Basement areas except as excluded in (2) below;
 - (6) Cellars in residential uses;
 - (7) All-weather habitable porches and balconies; and
 - (8) Parking garages except as excluded in (1) below.

Zoning Bylaw Amendments: Gross Floor Area

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE ____

ZONING BYLAW AMENDMENT/ GROSS FLOOR AREA

To see if the Town will vote to amend the Zoning Bylaw to clarify how landscaped and usable open space is calculated relative to gross floor area by amending SECTION 5.3.22. GROSS FLOOR AREA to add subsection C and add appropriate references in the associated definitions in SECTION 2; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 5.3.22.:

5.3.22. Gross Floor Area

- A. For the purposes of this bylaw, the following areas of buildings are to be included in the calculation of Gross Floor Area:
- (1) Elevator shafts and stairwells on each floor;
 - (2) Attic areas with headroom, measured from subfloor to the bottom of the roof structure, of seven feet ~~three inches~~ or more, except as excluded in (4) below;
 - (3) Interior mezzanines;
 - (4) Penthouses;
 - (5) Basement areas except as excluded in (2) below;
 - (6) Cellars in residential uses;
 - (7) All-weather habitable porches and balconies; and
 - (8) Parking garages except as excluded in (1) below.
- B. For the purposes of this bylaw, the following areas of buildings are to be excluded from the calculation of Gross Floor Area:
- (1) Areas used for accessory parking, or off-street loading purposes;
 - (2) Basement areas devoted exclusively to mechanical uses accessory to the operation of the building;
 - (3) Open or lattice enclosed exterior fire escapes;
 - (4) Attic and other areas used for elevator machinery or mechanical equipment accessory to the operation of the building; and
 - (5) Unenclosed porches, balconies, and decks.
- C. For the purposes of this bylaw, the ditrict dimensional requirements for Usable Open Space and Landscaped Open Space are calculated based on Gross Floor Area.

Zoning Bylaw Amendments: Gross Floor Area

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Amend SECTION 2:

Open Space, Landscaped: Open space designed and developed for pleasant appearance in trees, shrubs, ground covers and grass, including other landscaped elements such as natural features of the site, walks and terraces, and also including open areas accessible to and developed for the use of the occupants of the building located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes. Refer to Section 5.3.22.C. for on how to calculate landscaped open space.

Open Space, Usable: The part or parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation, including swimming pools, tennis courts, or similar facilities, or for garden or for household service activities such as clothes drying; which space is at least 75% open to the sky, free of automotive traffic and parking, and readily accessible by all those for whom it is required. Such space may include open area accessible to and developed for the use of the occupants of the building, and located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes. Open space shall be deemed usable only if at least 75% of the area has a grade of less than 8%, and no horizontal dimension is less than 25 feet. For newly constructed single-, two-family, and duplex dwellings with surface parking, no horizontal dimension shall be less than 20 feet. Refer to Section 5.3.22.C. for on how to calculate usable open space.

Zoning Bylaw Amendments: Other Districts Dimensional and Density Regulations
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE ____

**ZONING BYLAW AMENDMENT/
OTHER DISTRICTS DIMENSIONAL AND DENSITY REGULATIONS**

To see if the Town will vote to amend the Zoning Bylaw to include the legend for tables by amending SECTION 5.6.2. DIMENSIONAL AND DENSITY REGULATIONS; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 5.6.2.:

5.6.2. Dimensional and Density Regulations

The dimensional and density requirements in this Section apply to principal and accessory uses and structures in the MU, I, T, PUD, and OS districts. Additional dimensional and density regulations affecting all districts can be found in Section 5.3.

LEGEND FOR TABLES

Sq.ft. Square feet

ft Feet

L Length

H Height

W Width

ROW Right-of-Way

SP Special Permit

Y Yes (use allowed)

Zoning Bylaw Amendments: Prohibited Uses

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE ____

ZONING BYLAW AMENDMENT/ PROHIBITED USES

To see if the Town will vote to amend the Zoning Bylaw to indicate that uses without a “Y” or “SP” in the Tables of Uses are prohibited by amending SECTION 5.2.2. PROHIBITED USES to add subsection C; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 5.2.2.:

5.2.2. Prohibited Uses

- A. Any use not listed in the Tables of Uses for various districts in Section 5 or otherwise allowable under the provisions of this Bylaw is prohibited.
- B. All uses that pose a present or potential hazard to human health, safety, welfare, or the environment through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare, are expressly prohibited in all districts.
- C. Any use not designated with a “Y” (Yes, use allowed) or “SP” (Special Permit required) in the Tables of Uses for various districts is prohibited in that district, unless otherwise authorized by this bylaw.

Zoning Bylaw Amendments: Clarification of Definition of Mixed Use

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE___ ZONING BYLAW AMENDMENT/ CLARIFICATION OF DEINTITION OF MIXED USE

To see if the Town will vote to amend the definition of Mixed Use in the Zoning Bylaw to clarify that as enacted by Town Meeting, land uses individually prohibited in any particular zoning district are also prohibited as part of Mixed Use developments in the same zoning district; or take any action related thereto.

(Inserted at the request of Christopher Loreti and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

DRAFT

Zoning Bylaw Amendments: Conversion of Commercial to Residential
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE___ ZONING BYLAW AMENDMENT/ CONVERSION OF COMMERCIAL TO RESIDENTIAL

To see if the Town will vote to amend Section 5.2.4 the Zoning Bylaw, by inserting in the last sentence of said section, after the word footprint, the words "if allowed by special permit" and by inserting, after the words residential use, the words "provided that the addition or expansion is for affordable housing" so that said sentence will read as follows:

In the case of an existing commercial use, the addition or expansion of residential use within the building footprint if allowed by special permit shall not require adherence to setback regulations for residential uses, provided that the addition or expansion is for affordable housing, even if the residential use becomes the principal use of the building;

or take any action relating thereto.

(Inserted at the request of John L. Worden III and 10 registered voters)

The petitioner provides the following:

Under the law as it presently stands, a mixed use building, with its minimal setbacks could be converted entirely into residential uses, by right. Since the only kind of additional housing that Arlington needs is affordable housing, the ability to do that would be limited under this amendment, and subject to public review.

Zoning Bylaw Amendments: Parking Requirements

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE__

ZONING BYLAW AMENDMENT/ PARKING REQUIREMENTS

To see if the Town will support allowing the Arlington Redevelopment Board and the Zoning Board of Appeals to reduce parking requirements for applicants in the B3 or B5 Zoning Districts to zero; or take any action related thereto.

(Inserted at the request of Gami Maislin and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

DRAFT

Zoning Bylaw Amendments: Parking Regulations

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE ____

ZONING BYLAW AMENDMENT/ PARKING REGULATIONS

To see if the Town Meeting will vote to amend Section 6.1 of the current Zoning Bylaw regarding off-street parking to encourage new businesses such as restaurants; or take any action related thereto.

(Inserted at the request of Marvin Lewiton and 10 registered voters)

The petitioner provides the following:

The Arlington Heights business district was established when the primary means of transportation was a streetcar line running down Massachusetts Ave., rather than the widespread use of private automobiles. As such, buildings housing commercial establishments were constructed without consideration for off-street parking. Under the current bylaw, it would be virtually impossible for a new business to meet this requirement if it were situated on the north side of the block bordered by Park Avenue on the West, and Davis Rd. on the East.

The Town has expressed a strong desire for three vigorous business districts in the East, Arlington Center, and Arlington Heights. In past years, a number of businesses have closed in the Heights business district, and the current parking bylaw makes it challenging for new businesses to enter the area. We believe that changing the existing bylaw would aid in encouraging the development of new businesses, and helping to create a vibrant and diverse commercial community in Arlington Heights.

Zoning Bylaw Amendments: Definitions Related to Open Space

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE___ ZONING BYLAW AMENDMENT/ DEFINITIONS RELATED TO OPEN SPACE

To see if the Town will vote to amend the Zoning Bylaw by renaming the terms "Open Space", "Open Space, Usable" and "Open Space, Landscaped" in Section 2 – Definitions; or take any action related thereto.

(Inserted at the request of Stephen A. Revilak and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

DRAFT

Zoning Bylaw Amendments: Accessory Dwelling Units

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE__

ZONING BYLAW AMENDMENT/ UPPER STORY BUILDING SETBACKS

To see if the Town will vote to or take any action related thereto:

5.3.17 Upper-Story Building Step Backs (Amended as follows):

For buildings more than three stories in height, an additional 7.5 foot step-back (upper story building setback) shall be provided after ~~beginning at~~ the third story level or ~~30~~ 35 feet above grade, whichever is less. The upper story step-back shall be provided along all building elevations with street frontage, excluding alleys. In cases subject to Section 3.4, Environmental Design Review, the Arlington Redevelopment Board in evaluating the proposal may grant a special permit to adjust the required setbacks set forth in this Bylaw to account for specific conditions unique to the proposal.

(Inserted at the request of James Doherty and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

Zoning Bylaw Amendments: Accessory Dwelling Units

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE ____

ZONING BYLAW AMENDMENT/ ACCESSORY DWELLING UNITS

To see if the town will vote to allow Accessory Dwelling Units (ADUs) in single and two-family dwellings in residential districts, or take any action related thereto by amending the Zoning Bylaw as follows:

Section 1.2 Purposes to add “to encourage housing for persons at all income levels *and stages of life*”:
and

Section 2 5 Definitions Associated with Dwelling: to add *An ACCESSORY DWELLING UNIT, OR ACCESSORY APARTMENT, “Accessory dwelling unit”, four or more rooms constituting a self-contained accessory housing unit, inclusive of sleeping, cooking and sanitary facilities on the same premises as the principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code and state fire safety code; (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling. and*

Section 3.3.3 Special Permits to add “in the case of requests for special permits for Accessory Dwelling Units, the use will add to the need for a range of affordable housing opportunities for the Town.” and

Section 5.2.3 Districts and Uses: to add “to allow for the creation of accessory dwelling units in all zoning districts which allow residential use. (Include in Section 5.4 Residential Districts);

or take any action related thereto.

(Inserted at the request of Barbara Thornton and 10 registered voters)

The petitioner provides the following:

This warrant article is intended to recognize and build on the majority support for ADU’s from both the 2019 town meeting and from town residents who recognize a clear need to:

1. make available more reasonably priced housing opportunities for people need housing of a type or for a price not currently available to them and
2. offer homeowners with larger homes and available space (“over housed”), but who have limited incomes, an opportunity to monetize that space in order to continue to live in their homes and be able to pay their rising Arlington property taxes
3. create a space in their home to care for elderly or disabled family members or to be cared for themselves as they age

The attached draft language draws on ADU legislation from several municipalities near and comparable to Arlington. It is intended to emphasize the purpose of ADUs in helping to resolve the above problems currently facing town citizens.

Accessory Dwelling Units. The purpose of this is to allow for the creation of accessory apartments in single and two family residential districts. These districts contain a number of large single family homes that are underutilized, often occupied by one or two people who are “over housed” in homes with three or more bedrooms. Under current law, alteration of these homes to provide additional dwelling units would be prohibited in most cases due to the existing zoning standards.

The provision of accessory dwelling units in owner occupied one and two family dwellings is intended to:

1. Increase the number of small dwelling units available for rent in the town,

Zoning Bylaw Amendments: Accessory Dwelling Units

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

2. Encourage the availability of lower cost housing opportunities
3. Increase, the diversity of housing options for town residents, in response to demographic changes such as smaller households, older households, an increase in single parent and single person households;
4. Encourage better utilization of existing housing stock, particularly for older owners of larger homes;
5. Bring existing Accessory Apartments up to code for health and safety, and eliminate apartments that cannot be made safe, or do not comply with the provisions of this Zoning By-Law, and
6. Eliminate the continued construction of illegal unregulated apartment units.
7. Take advantage of the “over housing” that exists as a result of “empty nesters” not moving out of their larger, single family, multi bedroom, long time homes.
8. Encourage greater diversity of population with particular attention to young adults and senior citizens, and
9. Encourage a more economic and energy-efficient use of the town's housing supply while maintaining the appearance and character of the town's single family neighborhoods.

Given contemporary lifestyles, housing needs and energy and maintenance costs, it is beneficial to the Town to allow greater flexibility in the use of such dwellings without substantially altering the environmental quality of such residential districts. This Subsection gives the Board of Zoning appeal authority to relax such zoning requirements in certain instances consistent with the above objectives and as enumerated below.

Subsection 2: In a single or two family residential district the Board of Zoning Appeals may grant a special permit for alteration of a single family, detached dwelling legally in existence as of the effective date of this Subsection to provide one accessory apartment if the following conditions are met:

1. The dwelling was constructed prior to **Jan. 1, 2020**,
2. Prior to alteration the dwelling contains at least fifteen hundred (1,500) square feet of gross floor area.
3. Such accessory apartment shall not occupy more than fifty (50) percent of the gross floor area of the principal dwelling in existence prior to the effective date of this Subsection.

In granting a special permit the Board may impose such conditions, including requirements for off street parking and limitations on other accessory uses of the premises, as it may deem appropriate to avoid detriment to the neighborhood or to nearby persons or property. The Board of Zoning Appeals shall evaluate each special permit application which involves exterior changes with the appearance of and character of the neighborhood and may require that there be no change or minimal change to any face of a building oriented toward a public way or visible from a public way.

SPECIAL PERMIT GRANTING PROCEDURES:

1. The proposed Accessory Apartment is in harmony with and will promote the purposes of the Zoning By-Law;
2. The specific site is an appropriate location for such a use, structure or condition;
3. The use as developed will not adversely affect the neighborhood;
4. There will be no nuisance or serious hazard to vehicles or pedestrians;
5. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
6. In granting a special permit, the TOWN may impose such additional conditions as it may deem necessary to protect the single or **two** family appearance of the dwelling, and to bring the dwelling

Zoning Bylaw Amendments: Accessory Dwelling Units

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

as close to conformity with the conditions and requirements for new accessory apartments, as is feasible.

7. A special permit granted by the TOWN shall include a condition that a certificate of occupancy shall be obtained for periods not to exceed three years. No subsequent certificate of occupancy shall be issued unless there is compliance with the plans and conditions approved by the TOWN.
8. If a special permit is granted and corrective changes are required, they must be completed within 90 days of the date of granting the permit. When required changes are completed, the building commissioner will issue a certificate of occupancy.
9. If a special permit is denied, the second dwelling unit shall be terminated within one year of the date of the denial.
10. Upon a conveyance of the property, the subsequent owner shall submit to the Zoning Enforcement Officer a certificate of compliance with prior conditions.
11. A Special Permit-Accessory Apartment shall be required for all units meeting the definition of an Accessory Dwelling Unit and designated in this Zoning By-Law as requiring a Special Permit-Accessory Apartment before the Inspector of Buildings may issue a building permit or an occupancy permit. The Board of Appeals shall not approve any such application unless it finds that in its judgement all of the criteria for a Special Permit set forth in above Sections of the By-Law have been satisfied and, in addition, that the following conditions are met:
 - a) The proposed Accessory Apartment is in harmony with and will promote the purposes of the Zoning By-Law (PURPOSE);
 - b) The specific site is an appropriate location for such a use, structure or condition;
 - c) The use as developed will not adversely affect the neighborhood;
 - d) There will be no nuisance or serious hazard to vehicles or pedestrians;
 - e) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Much of the information and suggestions in the above notes are drawn from the laws and regulations of other Massachusetts municipalities that allow Accessory Dwelling Units. The Pioneer Institute did a comprehensive survey of Massachusetts municipalities and collected the relevant legislation related to all those municipalities that had ADU. In preparation for drafting this warrant, that report, including dozens of bylaws included, was reviewed.

Also in preparation for submitting this warrant article, meetings were held with the Arlington Building Inspector and the Arlington Fire Chief. Each municipality may have its own legislation. In every municipality the Building Inspector must inspect in relation to the state building inspections code. The state code, CMR 780, in turn is based on compliance with changes in national and international building codes. The determination of compliance with the building code includes a variety of complex and technical factors. It is the local Building Inspector's responsibility to determine that the residential unit is safely habitable. Each local building inspector may interpret this complex mix of factors and the state building code in slightly different ways. In Arlington, the Building Inspector has determined that an ADU is best inspected under the code's criteria of a two family residence. While this may be a more conservative interpretation than some communities. It is not unusual and it does reinforce the concern for the safety of Arlington residents.

The Fire Chief considers the NFPA1, the National Fire Protection Association's code for life safety, etc., when his staff reviews an application for an ADU in Arlington.

Zoning Bylaw Amendments: Accessory Dwelling Units

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Bottom line, compliance with building and safety codes is complicated. It behooves a homeowner interesting in adding an ADU to first consult with a trained professional who is familiar with the complexity of these codes and how they might be interpreted in the homeowner's own property.

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Zoning Bylaw Amendments: Affordable Housing on Privately Owned Parcels of Non-Conforming Size
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE___

ZONING BYLAW AMENDMENT/

AFFORDABLE HOUSING ON PRIVATELY OWNED PARCELS OF NON-CONFORMING SIZE

To see if the Town will vote, to allow the development of new sources of permanently affordable housing (affordable in perpetuity and affordability as defined in Arlington Zoning By-Laws) by modifying the requirements for constructing housing units to enable construction on smaller lots as long as those units are permanently committed to be available for rental or ownership according to official regional guidelines (see Zoning Bylaw Section 2, Basic Provisions, Definitions Associated with Affordable Housing) of affordability; or take any action related thereto.

(Inserted at the request of Barbara Thornton and 10 registered voters)

The petitioner provides the following:

Below are suggested standards, per zoning district, for the creation of an affordable residential unit on a “non-conforming” parcel. These standards would create more lenient zoning requirements in exchange for the creation of a permanently affordable housing unit. Gross Floor Areas might range between 1500 and 4300 square feet, depending on the lot.

Non- Conforming Lots R1 Zoning District

Requirements

- New zoning district created for non-confirming lots **AR1** (Affordable Residential Single Family)
- Special permit required
- All units developed must adhere to Section 8.2 of the Zoning Bylaws
- Minimum lot size 3,000 square feet.
- Minimum street frontage 40’
- Open Space will be reduced to 20% with minimum of 20’ in one direction.
- The size of a single-family dwelling is determined by using the F.A.R. calculation of 0.50
- A lot can be subdivided to create a non-confirming lot. However, the existing lot must meet all conforming lot requirements in accordance with the zoning by law

Examples

<u>Lot Size</u>	<u>Front Yard</u>	<u>Rear Yard</u>	<u>Side Yard</u>	<u>Lot Coverage</u>	<u>F.A.R.</u>
3,000	15’	20’	5’ on one side 10’ on 2 nd side	35%	0.50
3,500	15’	20’	5’ on one side 10’ on 2 nd side	35%	0.50
4,000	15’	20’	5’ on one side 10’ on 2 nd side	35%	0.50
5,000	15’	20’	5’ on one side 10’ on 2 nd side	35%	0.55

Zoning Bylaw Amendments: Affordable Housing on Privately Owned Parcels of Non-Conforming Size
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Non- Conforming Lots - R2 Zoning District

Requirements

- New zoning district created for non-confirming lots **AR2** (Affordable Residential Two- Family)
- Special permit required
- All units developed must adhere to Section 8.2 of the Zoning Bylaws
- Minimum lot size 4,000 square feet
- Minimum street frontage 40'
- Open Space will be reduced to 20% with minimum of 20' in one direction
- The size of a two-family dwelling determined by using the F.A.R. calculation of 0.85
- A lot can be subdivided to create a non-confirming lot. However, the existing lot must meet all conforming lot requirements in accordance with the zoning bylaws.

Example

<u>Lot Size</u>	<u>Front Yard</u>	<u>Rear Yard</u>	<u>Side Yard</u>	<u>Lot Coverage</u>	<u>F.A.R.</u>
4,000	15'	20'	5' on one side 10' on 2 nd side	35%	0.85
5,000	15'	20'	5' on one side 10' on 2 nd side	35%	0.85

Non- Conforming Lots- R0 Zoning District

Requirements

- New zoning created for non-confirming lots **ARO** (Affordable Residential Single Family)
- Special permit required
- All units developed must adhere to Section 8.2 of the Zoning By-Laws
- Minimum lot size 6,000 square feet.
- Minimum street frontage 50'.
- Open Space will be reduced to 20% with minimum of 20' in one direction.
- The size of a single-family dwelling is determined by using the F.A.R. calculation of 0.45.
- A lot can be subdivided to create a non-confirming lot so long as one portion of the existing lot meets the conforming lot requirements.

Examples

<u>Lot Size</u>	<u>Front Yard</u>	<u>Rear Yard</u>	<u>Side Yard</u>	<u>Lot Coverage</u>	<u>F.A.R.</u>
6,000	25'	20'	10'	35%	0.45
7,000	25'	20'	10'	35%	0.45

Zoning Bylaw Amendments: Sideyard Sky Exposure Planes

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE___ ZONING BYLAW AMENDMENT/ SIDEYARD SKY EXPSOURES PLANES

To see if the Town will vote to or take any action related thereto: To amend Section 5.3 of the Zoning Bylaw by inserting, at the end thereof, a new sub-section 5.3.23 which describes the Purpose & Intent, Applicability, Definitions, Standards by District, Dimensional and Density Regulations and Exceptions for Sideyard Sky Exposure Planes to accommodate new construction while protecting public health, safety and welfare in Residential Zoning Districts.

(Inserted at the request of Ted Fields and 10 registered voters)

The petitioner provides the following:

5.3.23 SIDEYARD SKY EXPOSURE PLANES

- A. Purpose and intent. This Section is to accommodate new construction in residential zoning districts R0, R1, and R2 while protecting the health, safety and general welfare of the community and further:
 - (1) Encourage the use of solar energy systems and protect solar access;
 - (2) Protect the right of neighboring property owners to the use of their property within other zoning restrictions;
 - (3) Preserve views;
 - (4) Promote privacy.
- B. Applicability. The sky exposure plane standards in this section shall apply to one-family dwellings, two-family dwellings, three-family dwellings and duplex houses in principal buildings, and accessory buildings or structures exceeding 100 square feet in building area, erected under a Building Permit for New Construction issued after January 1, 2021, or as may otherwise be specified in these Bylaws.
- C. Definitions.
 - (1) Side Yard Sky Exposure Plane: A plane that begins on a side yard lot line of a parcel at a specified starting elevation (based on the average finished grade of the ground adjoining that lot line), then extends vertically and horizontally toward the center of the lot along a slope perpendicular to that lot line until it reaches the maximum permitted height in the under-lying zoning district or intersects with a Side Yard Sky Exposure Plane from another of the parcel's lot lines. The Slope and the Starting Elevation for the Side Yard Sky Exposure Plane may vary for separate lot lines of a lot.
 - (2) Slope: The vertical rise of a Side Yard Sky Exposure Plane above the horizontal, expressed as a ratio of Rise (Vertical distance) to Run (Horizontal distance).
 - i. A Side Yard Sky Exposure Plane with a slope of 2.5:1 rises two and one half (2.5) feet vertically for every one (1) foot of horizontal distance away from its starting point.
 - ii. A Side Yard Sky Exposure Plane with a slope of 2:1 rises two (2) feet vertically for every one (1) foot of horizontal distance away from its starting point.
 - iii. A Side Yard Sky Exposure Plane with a slope of 1.5:1 rises one and one half (1.5) foot vertically for every one (1) foot of horizontal distance away from its starting point.

Zoning Bylaw Amendments: Sideyard Sky Exposure Planes

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

- (3) Starting Elevation: The vertical distance at or above the average finished grade of the ground adjoining a lot line, specified in Section 5.3.23, Table 1: Dimensional and Density Regulations, which marks the starting point of a Side Yard Sky Exposure Plane.

D. Standards by district.

- (1) No building or structure; or portion thereof; shall be constructed or maintained beyond the Side Yard Side Yard sky exposure plane set forth in Section 5.3.23 Table 1, except as provided for in Section 5.3.20 and Section 5.3.23 F.
- (2) Where a building or structure is subject to a Side Yard Sky Exposure Plane begins at a lot line bordering or within a different district, the stricter limitation shall apply.

E. Dimensional and Density Regulations Table revisions:

Section 5.3.23 TABLE 1: DIMENSIONAL AND DENSITY REGULATIONS - SIDE YARD SKY EXPOSURE PLANES

District Designation	Side Lot Line Slope (Rise/Run)	Side Lot Line Starting Elevation
R0	1.5 ft: 1 ft	0 feet above side lot line
R1	2 ft: 1 ft	0 feet above side lot line
R2	2.5 ft: 1 ft	0 feet above side lot line

F. Exceptions to Side Yard Sky Exposure Planes in R0, R1and R2 districts.

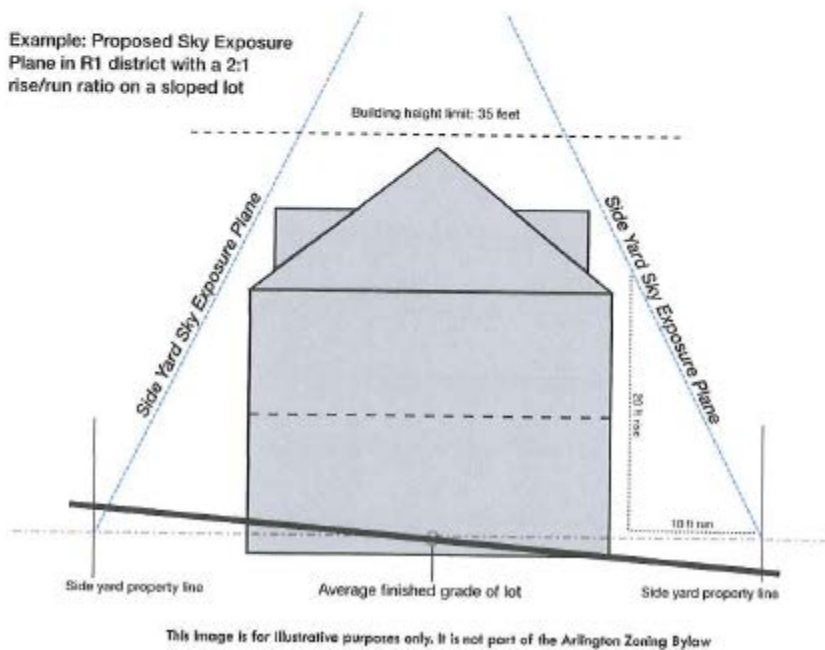
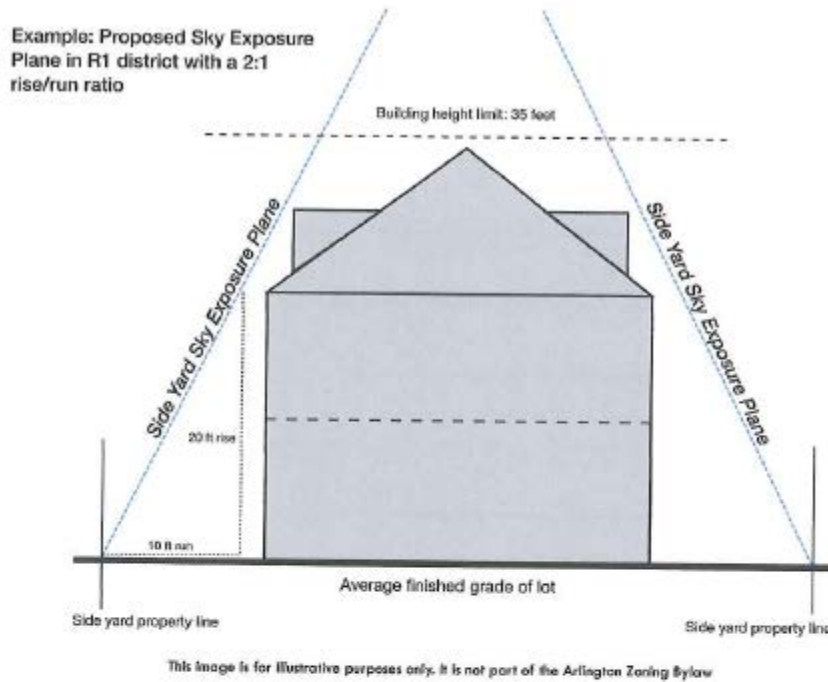
- (1) The following structural elements may encroach beyond the Side Yard Sky Exposure Plane as specified below:
- Roof overhangs or eaves that extend horizontally no more than two feet (24") beyond the Side Yard Sky Exposure Plane;
 - Roof-mounted solar energy systems mounted flush to the roof sur face, or at an angle measured from a horizontal plane of no more than 15 degrees, provided that no supporting structure or equipment extends beyond the Side Yard Sky Exposure Plane;
 - Gable roof-ends that extend no more than seven and one half (7.5) feet vertically and horizontally beyond the Side Yard Sky Exposure Plane, including any roof overhang;
 - Dormers, provided that
 - The highest point of any dormer does not exceed the height of the primary roof ridge;
 - All dormers extend no more than five (5) feet horizontally and five (5) feet vertically beyond the Side Yard Sky Exposure Plane, including any roof overhang;
 - The combined width for all dormers does not exceed fifty percent (50%) of the length of roof on which they are located;
- (2) The Side Yard Sky Exposure Plane regulations set forth in Section 5.3.23 A shall not apply to the structural elements described in Section 5.3 as exceptions to the height limitations in Section 5.3.20.
- (3) Side Yard Sky Exposure Planes in R0, R1 and R2 districts are not applicable to one-family dwellings, two-family dwellings and duplex houses erected under a building permit issued

Zoning Bylaw Amendments: Sideyard Sky Exposure Planes

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

after January 1, 2021 which contain at least one dwelling unit, or 50% of total dwellings units, whichever is greater, that meets the definition of Affordable Units as defined in Section 2 and are rented or sold to Eligible Households as defined in Section 2.

Illustration A. SideYard Sky Exposure Planes



Zoning Bylaw Amendments: Improving Residential Inclusiveness, Sustainability, and Affordability by Ending Single Family Zoning

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE____ ZONING BYLAW AMENDMENT/ IMPROVING RESIDENTIAL INCLUSIVENESS, SUSTAINABILITY, AND AFFORDABILITY BY ENDING SINGLE FAMILY ZONING

To see if the Town will vote to or take any action related thereto: To amend the Zoning Bylaw for the Town of Arlington by expanding the set of allowed residential uses in the R0 and R1 Zoning Districts with the goal of expanding and diversifying the housing stock by altering the district definitions for the R0 and R1 Zoning Districts.

(Inserted at the request of Benjamin Rudick and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

Zoning Bylaw Amendments: Definition of Foundation

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE__

ZONING BYLAW AMENDMENT/ DEFINITION OF FOUNDATION

To see if the Town will vote to amend Section 2 of the Zoning Bylaw, by adding a new definition as follows:

Building Foundation: The masonry or concrete structure in the ground which supports the building. It does not include porches, decks, sheds, patios, one story attached garages, carports, or the like; or take any action related thereto.

(Inserted at the request of Patricia B. Worden and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

Zoning Bylaw Amendments: Notice of Demolition, Open Foundation Excavation, New Construction, or Large Additions

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

**ARTICLE____ ZONING BYLAW AMENDMENT/ NOTICE OF DEMOLITION,
OPEN FOUNDATION EXCAVATION, NEW CONSTRUCTION, OR LARGE ADDITIONS**

To see if the Town will vote to amend the Zoning Bylaw in Section 3.1.B. by appending to the end of this section the sentence: “No such permit shall be issued until the Building Inspector finds that the applicant is in compliance with the applicable provisions of Title VI, Article 7 of the Town Bylaws.”; or take any action related thereto.

(Inserted at the request of Michael Ruderman and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

Zoning Bylaw Amendments: Publication of Supporting Documentation – Zoning Board of Appeals
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

**ARTICLE___ ZONING BYLAW AMENDMENT/ PUBLICATION OF SUPPORTING DOCUMENTATION-
ZONING BOARD OF APPEALS**

To see if the Town will vote to require the Zoning Board of Appeals to publish, on the Town Website, supporting documentation pertaining to items on its agenda; or take any action related thereto.

(Inserted at the request of Christopher Loreti and 10 registered voters)

The Redevelopment Board has not received any additional information from the petitioner as of February 13, 2020.

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